

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

|   |                                 |
|---|---------------------------------|
| -----   | X                               |
| TETYANA MOSKALENKO, on her own behalf and on<br>behalf of all other Seafarers similarly situated, | : Case No.                      |
|   | : 1:17-cv-06947-NGG-CLP         |
|   | :                               |
| Plaintiffs,   | : <b>DECLARATION OF EDGAR</b>   |
|   | : <b>R. NIELD IN SUPPORT OF</b> |
| v.  | : <b>DEFENDANTS CARNIVAL</b>    |
|   | : <b>PLC AND FLEET</b>          |
| CARNIVAL PLC and FLEET MARITIME SERVICES  | : <b>MARITIME SERVICES</b>      |
| INTERNATIONAL, LTD.,  | : <b>INTERNATIONAL, LTD.’S</b>  |
|   | : <b>MOTION TO COMPEL</b>       |
| Defendants.   | : <b>ARBITRATION</b>            |
|   | :                               |
|   | : Date: August 21, 2018         |
|   | : Time: 2:00 p.m.               |
|   | : Judge Nicholas G. Garaufis    |
|   | : Courtroom: 4D S               |
| -----   | X                               |

I, Edgar R. Nield, declare as follows:

1. I am an attorney admitted to practice in the Eastern District of New York, *pro hac vice*. I am of counsel with the firm of MALTZMAN & PARTNERS, P.A., attorneys of record Carnival PLC and Fleet Maritime Services International, LTD. I have personal knowledge of the facts attested to herein and if called upon I can and will competently testify thereto at trial.

2. Attached hereto as Exhibit “A” is a true and correct copy of the August 27, 2015 – February 17, 2016 Employment Agreement signed by Tetyana Moskalenko, referred to as the 2015 Seafarer’s Employment Agreement, Part A.

3. Attached hereto as Exhibit “B” is a true and correct copy of the September 1, 2016 – March 2, 2017 Employment Agreement signed by Tetyana Moskalenko, referred to as the 2016 Seafarer’s Employment Agreement, Part A.

4. Attached hereto as Exhibit “C” is a true and correct copy of the July 9, 2017- October 3, 2018 Employment Agreement signed by Tetyana Moskalenko, referred to as the 2017 Seafarer’s Employment Agreement, Part A.

5. Attached hereto as Exhibit "D" is a true and correct copy of the "Standard Terms & Conditions of Employment," referred to as part "B3," in effect for Plaintiff's contracts at issue.

I declare under penalty of perjury, pursuant to the laws of the United States that the foregoing is true and correct.

Executed this 22<sup>nd</sup> day of June 2018 at Encinitas, California.

A handwritten signature in black ink, appearing to read "E. Nield", is positioned above a horizontal line.

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EDGAR R. NIELD  
Declarant

# EXHIBIT A

SEAFARER'S EMPLOYMENT AGREEMENT  
PART A - INDIVIDUAL TERMS

Fixed Term - Monthly Paid

This Employment Agreement is between:

|   |   |   |                      |
|---|---|---|----------------------|
| 1. EMPLOYEE   |   | ID: 245256  |                      |
| 1.1 NAME (SURNAME, FORENAMES)   | MOSALENKO   | Totopina  |                      |
| 1.2 DATE OF BIRTH   | 12 September 1978   | Place of Birth                                    | Kyiv, Ukraine        |
| 2. EMPLOYER   |   |   |                      |
| 2.1 COMPANY NAME: Fleet Maritime Services (Stevedores) Ltd., known as "The Company" |   |   |                      |
| 3. JOB DETAILS  |   |   |                      |
| 3.1 RANK  | Stevedores  | 3.2 RESIDENTIAL DISTRICT                          | Odesa                |
| 4. PAY & WORKING HOURS  |   |   |                      |
| 4.1 RATE OF PAY   | 1503.00 USD per month (inclusive of guaranteed gratuities listed on your substandard card)  | 4.2 DAILY WORKING HOURS                           | 10 hours per day     |
| 4.3 CONTRACTED CONVOY/CELS/PERIOD   | 200 hours   | These are your contracted hours per 30 day month. |                      |
| 5. CONTRACT TERMS   |   |   |                      |
| 5.1 START DATE  | 27 August 2015  | 5.2 EMPLOYMENT END DATE                           | 17 February 2016     |
| 5.3 PROBATION PERIOD  | 3 months  | 5.4 PROBATION NOTICE PERIOD                       | 14 days (in writing) |
| 5.5 EMPLOYEE'S NOTICE PERIOD  | 30 days   | 5.6 EMPLOYER'S NOTICE PERIOD                      | 30 days              |
| 6. TERMS AND CONDITIONS   |   |   |                      |
| 6.1 COLLECTIVE BARGAINING AGREEMENT   | There is no Collective Bargaining Agreement governing your employment.  |   |                      |
| 6.2 STANDARD TERMS & CONDITIONS OF EMPLOYMENT                                       | Part B of your Employment Agreement is attached setting out all the standard terms and conditions of employment relating to your rank and position, referenced as BS. |   |                      |
| 6.3 PROVISIONS TERMS & CONDITIONS OF EMPLOYMENT - PART C                            | Not applicable.   |   |                      |

## ACCEPTANCE OF EMPLOYMENT (Please print clearly in full)

By signing all of the terms and conditions set out and referred to in Parts A, B and, where applicable, Part C of this Agreement and/or the terms set out in a Collective Bargaining Agreement, employee hereby accepts them, confirming that they have had sufficient opportunity to review and seek advice on them, and clearly understands their full terms and conditions, rights and responsibilities. Employee retains a signed copy of their full Employment Agreement, which consists of all relevant documents referred to above and retains copies of the key policies referred to within their Employment Agreement.

Employee agrees to abide by the conditions set forth in the Policies and Procedures, HESS Ltd. Standing Orders and any other Company and ship rules and regulations that may come into effect during the period of this Employment Agreement. Employee confirms that they have received, read and understood the Shipowner's Complaints Procedure and acknowledges that the above-mentioned conditions, policies, procedures and documents are available onboard and may change from time to time. Employee acknowledges that they are responsible for keeping up to date with any changes that they will be notified of and abide by them at all times.

Employee confirms that no verbal promises or other Agreements have been made to them and that they understand that they are not entitled to any additional benefits of any kind except those provided for in this Agreement. Employee acknowledges and understands that details of their Employment Agreement may be disclosed by the Company or the Shipowner to any relevant authority. If any provision of this Agreement shall to any extent be held invalid or unenforceable, the remaining terms and conditions shall not be affected thereby but shall be held valid and enforceable.

|  |                    |                                      |                                     |
|--|--------------------|--------------------------------------|-------------------------------------|
| EMPLOYEE'S SIGNATURE                     | <i>[Signature]</i> | AUTHORIZED COMPANY SIGNATURE         | <i>[Signature]</i>                  |
| EMPLOYEE'S FULL NAME                     | MOSALENKO TOTOPINA | SIGNATURE'S FULL NAME                | Alexander Gerasimov                 |
| DATE (DD/MM/YYYY)                        | 08/01/2015         | DATE (DD/MM/YYYY)                    | 25/06/15                            |
| PLACE (COUNTRY) WHERE SIGNED BY EMPLOYEE | UKRAINE            | ONCE SIGNED BY EMPLOYEE PUT X IN BOX | <input checked="" type="checkbox"/> |

Please attach to Part B (and C if applicable) which sets out the standard terms and conditions applicable to your employment. Part A is fixed term - Monthly Paid 1503.00 USD

# **EXHIBIT B**


**SEAFARER'S EMPLOYMENT AGREEMENT**  
**PART A – INDIVIDUAL TERMS**

Fixed Term – Monthly Paid

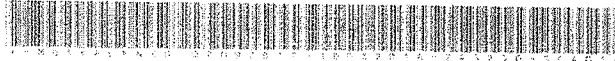
This Employment Agreement is between:

|  |   |   |  |
|--|---|---|--|
| <b>1. EMPLOYEE</b>   |   | ID: 245750  |  |
| 1.1  | NAME (SURNAME, FORENAME)                            | Moskalenko  | Tetyana  |
| 1.2  | DATE OF BIRTH                                       | 12 September 1978   | PLACE OF BIRTH<br>UKR<br>Ukraine                       |
| <b>2. EMPLOYER</b>   |   |   |  |
| 2.1  | COMPANY NAME  | Fleet Maritime Services (Bermuda) Ltd., Herein known as 'the Company'   |  |
| <b>3. JOB DETAILS</b>  |   |   |  |
| 3.1  | RANK  | Steward/ess   | 3.2 REPATRIATION DESTINATION<br>Odessa                 |
| <b>4. PAY &amp; WORKING HOURS</b>  |   |   |  |
| 4.1  | RATE OF PAY   | 1501.00 USD per Month (inclusive of guaranteed gratuities) (based on your substantive rank)   | 4.2 DAILY WORKING HOURS<br>10 hours per day            |
| 4.3  | CONTRACTED CONSOLIDATED HOURS                       | 300 hours   | These are your contracted hours per 30 day month.      |
| <b>5. CONTRACT TERMS</b>   |   |   |  |
| 5.1  | START DATE  | 01 September 2016   | 5.2 EMPLOYMENT END DATE<br>02 March 2017               |
| 5.3  | PROBATION PERIOD                                    | 3 months  | 5.4 PROBATIONARY NOTICE PERIOD<br>14 days (in writing) |
| 5.5  | EMPLOYEE'S NOTICE PERIOD                            | 30 days   | 5.6 EMPLOYER'S NOTICE PERIOD<br>30 days                |
| <b>6. TERMS AND CONDITIONS</b>   |   |   |  |
| 6.1  | COLLECTIVE BARGAINING AGREEMENT                     | There is no Collective Bargaining Agreement governing your employment.  |  |
| 6.2  | STANDARD TERMS & CONDITIONS OF EMPLOYMENT           | Part B of your Employment Agreement is attached setting out all the standard terms and conditions of employment relating to your rank and position, referenced as B1. |  |
| 6.3  | PROTECTED TERMS & CONDITIONS OF EMPLOYMENT – PART C | Not applicable  |  |
| <b>ACCEPTANCE OF EMPLOYMENT (Please read carefully before signing)</b>   |   |   |  |
| <p>By signing all of the terms and conditions set out and referred to in Parts A, B and, where applicable, Part C of this Agreement and/or the terms set out in a Collective Bargaining Agreement, employee freely accepts them, confirms that they have had sufficient opportunity to review and seek advice on them, and clearly understands their full terms and conditions, rights and responsibilities. Employee retains a signed copy of their full Employment Agreement, which consists of all relevant documents referred to above and retains copies of the key policies referred to within their Employment Agreement.</p> <p>Employee agrees to abide by the conditions set forth in the Policies and Procedures, HESS MS, Standing Orders and any other Company and ship rules and regulations that may come into effect during the period of this Employment Agreement. Employee confirms that they have received, read and understood the Shipowner's Complaints Procedure and acknowledges that the above-mentioned conditions, policies, procedures and documents are available onboard and may change from time to time. Employee acknowledges that they are responsible for keeping up to date with any changes that they will be notified of and abide by them at all times.</p> <p>Employee confirms that no verbal promises or other Agreements have been made to them and that they understand that they are not entitled to any additional benefits of any kind except those provided for in this Agreement. Employee acknowledges and understands that details of their Employment Agreement may be disclosed by the Company or the Shipowner to any relevant authority. If any provisions of this Agreement shall to any extent be held invalid or unenforceable, the remaining terms and conditions shall not be affected thereby but shall be held valid and enforceable.</p> |   |   |  |
| EMPLOYEE'S SIGNATURE   |   | AUTHORISED COMPANY SIGNATORY  |  |
| EMPLOYEE'S FULL NAME   |   | SIGNATORY'S FULL NAME   |  |
| DATE (DD/MM/YYYY)  |   | DATE (DD/MM/YYYY)   |  |
| PLACE (COUNTRY) WHERE SIGNED BY EMPLOYEE   |   | ONCE SIGNED BY EMPLOYEE PUT X IN BOX  |  |

Please continue to Part B (and C if applicable) which sets out the standard terms and conditions applicable to your employment.

Part A4 Fixed term - Monthly Paid - V1 FINAL 2015

# EXHIBIT C



# SEAFARER'S EMPLOYMENT AGREEMENT

## PART A - INDIVIDUAL TERMS

Fixed Term - Monthly Paid

This Employment Agreement is between:

|                                  |  |                              |
|----------------------------------|--|------------------------------|
| 1. EMPLOYEE                      |  | ID: 248256                   |
| 1.1 Name (Surname, Forename)     | MOSKALENKO TETIANA   |                              |
| 1.2 Date of Birth                | 12-09-1979   | UKR                          |
| 2. EMPLOYER                      |  |                              |
| 2.1 Company Name                 | Fleet Maritime Services (Bermuda) Ltd., (herein known as "The Company")  |                              |
| 3. JOB DETAILS                   |  |                              |
| 3.1 Rank                         | Deck Officer   | 3.2 Repatriation Destination |
| 4. PAY & WORKING HOURS           |  |                              |
| 4.1 Basic Pay                    | USD 1,501.00 per month   | 4.2 Total Working Hours      |
| The King Government of Gibraltar |  | 16:00 hours per week         |
| 5. CONTRACT TERMS                |  |                              |
| 5.1 Start Date                   | 07-09-2017   | 5.2 Expiry Date (if any)     |
| 6. TERMS AND CONDITIONS          |  |                              |
| 6.1 Collective Bargaining        | There is no Collective Bargaining Agreement governing your employment  |                              |
| 6.2 Standard Contract            | Part B of your employment Agreement is attached setting out all the standard terms and conditions of employment relating to your rank and position (referred to as "Part B") |                              |
| 6.3 Conditions of Employment     | There are no Particular Terms and Conditions governing your employment   |                              |

### ACCEPTANCE OF EMPLOYMENT (Please read carefully before signing)

By signing all of the terms and conditions set out and referred to in Part A, B and, where applicable, Part C of this Agreement under the terms set out in a Collective Bargaining Agreement, employee freely accepts them, confirms that they have had sufficient opportunity to review and seek advice on them, and clearly understands their full terms and conditions, rights and responsibilities. Employee retains a signed copy of their full Employment Agreement, which consists of all relevant documents referred to above and retains copies of the key policies referred to within their Employment Agreement.

Employee agrees to abide by the conditions set forth in the Policies and Procedures, HSE MS, Standing Orders and any other Company and ship rules and regulations that may come into effect during the period of this Employment Agreement. Employee confirms that they have received, read and understood the Shipowner's Complaints Procedure and acknowledges that the above mentioned conditions, policies, procedures and documents are available onboard and may change from time to time. Employee acknowledges that they are responsible for keeping up to date with any changes that they will be notified or need to be aware of at all times.

Employee declares that no verbal promises or other Agreement have been made to them and that they understand that they are not entitled to any additional benefits or any other pay or those provided for in this Agreement. Employee acknowledges and understands that details of their Employment Agreement may be disclosed by the Company or the Shipowner to any relevant authority. If any provision of this Agreement shall to any extent be held invalid or unenforceable, the remaining terms and conditions shall not be affected thereby but shall be held valid and enforceable.

|                      |                                      |
|----------------------|--------------------------------------|
| EMPLOYEE SIGNATURE   | AUTHORIZED SIGNATORY                 |
| EMPLOYEE'S FULL NAME | SIGNATORY'S FULL NAME                |
| DATE (DD/MM/YYYY)    | DATE (DD/MM/YYYY)                    |
| PLACE SIGNATURE OVER | ONCE SIGNED BY EMPLOYEE PUT X IN BOX |
| SIGNED BY EMPLOYEE   | X                                    |

Please continue to Part B (and C if applicable) which sets out the standard terms and conditions applicable to your employment.

Part A - Fixed Term - Monthly Paid - 15 June 2017



# EXHIBIT D

## **PART B3 – STANDARD TERMS AND CONDITIONS - FIXED TERM EMPLOYMENT**

The following constitutes your Standard Terms and Conditions of Employment and is part of your Seafarers Employment Agreement. Please read in conjunction with all other parts.

### **1. CONTRACT TERMS**

|   |   |
|---|---|
| <b>1.1 TOUR OF DUTY</b>                           | <ul style="list-style-type: none"> <li>a) The Company requires you to provide services onboard a ship for a fixed period of time. This period of time is referred to within this Agreement as a 'Tour of Duty' (TD).</li> <li>b) The start date and end date of your employment under this Fixed Term Agreement is specified in Part A of your Employment Agreement.</li> </ul>   |
| <b>1.2 STATUTORY LEAVE</b>                        |   |
| <b>1.2.1 Statutory Leave/Public Bank Holidays</b> | <ul style="list-style-type: none"> <li>a) You are entitled to 30 days paid statutory leave per annum ('basic entitlement') or as provided by Flag State Law (whichever is the greater). Your basic entitlement accrues each day of employment and is pro-rated to reflect the length of your Tour of Duty.</li> <li>b) Any public holidays as provided for by Flag State Law will accrue as they arise under the Flag State calendar during your Tour of Duty.</li> <li>c) Your Rate of Pay is a consolidated rate and therefore payment for statutory leave and any public bank holidays which arise during your Tour of Duty is incorporated into your Rate of Pay and no extra payment will be made either during your Tour of Duty or when your employment terminates.</li> </ul> |
| <b>1.3 TOUR OF DUTY FLEXIBILITY</b>               | <ul style="list-style-type: none"> <li>a) To enable the Company to be operationally efficient and deal with unplanned circumstances, you may be asked to amend your employment start/end date.</li> <li>b) The Company will endeavour to give reasonable notice to you in respect of any changes to your agreed Tour of Duty.</li> </ul>  |
| <b>1.4 HOURS OF WORK</b>                          | <ul style="list-style-type: none"> <li>a) On joining a ship for a Tour of Duty, a schedule of your daily working routine will be made available to you. Your work routine may vary, and in particular can differ when the ship is at sea and in port.</li> <li>b) Your normal working hours are based on those stated in Part A. However, you are required to work any additional hours as required and/or as necessary to effectively execute your duties (in compliance with applicable Flag State Law on hours of work and rest hours).</li> <li>c) Please refer to Section 2.2.1 below for details in respect of overtime entitlement.</li> </ul>   |
| <b>1.5 SHORE LEAVE</b>                            | <p>During your Tour of Duty, shore leave will be granted where passenger service, operational, navigational and safety requirements permit and, where applicable, following agreement with your Head of Department.</p>   |
| <b>1.6 SECONDMENT ASHORE</b>                      | <p>If you are required to carry out a shore-side secondment then the Company will, at the time, agree the terms and conditions that will be applicable to the period of the secondment with you. Any secondment in the UK may require that you move to an appropriate contract, which could be with another group Company.</p>  |
| <b>1.7 COMPASSIONATE LEAVE</b>                    | <ul style="list-style-type: none"> <li>a) If during the course of duty you are faced with a serious illness or bereavement of your spouse, partner, child, parent or registered next of kin, every effort will be made to repatriate you as quickly as possible in accordance with the Compassionate Leave Policy.</li> <li>b) Please refer to the Compassionate Leave Policy for further details.</li> </ul>   |
| <b>1.8 PLACE OF WORK</b>                          | <ul style="list-style-type: none"> <li>a) Carnival plc, trading as P&amp;O Cruises and Cunard, Herein known as 'the Shipowner'; at Carnival House, 100 Harbour Parade, Southampton, SO15 1ST, UK</li> </ul>   |

Part B3  
Standard Terms and Conditions Fixed Term Employment  
Ref: B3 – Current (1<sup>st</sup> April 2015)

- b) You may be appointed to any ship owned and/or operated by the Shipowner under either of their brands, P&O Cruises and Cunard or any other brand(s) owned and/or operated by the Shipowner from time to time. During your employment and/or during a Tour of Duty, you may be required to transfer between ships within these brands. This Employment Agreement continues to apply whilst serving on any of the ships within these brands.
- c) Employer's registered address is Par La Ville Place, 14 Par La Ville Road, Hamilton, Bermuda HM JX

#### **1.9 PROBATION PERIOD**

- a) If your employment is anticipated to be for a shorter period than stated in 5.2 of your Part A, you will be on a probation period for the duration of your employment. For Fixed Term Agreements longer than the probationary period, you will be assessed for suitability for continuation of employment under your fixed term contract or permanent employment, if applicable.
- b) Probationary periods will not normally apply to promotions within the Company which are on a fixed term basis, unless expressly stated in your promotion letter or in writing.
- c) Once you have been confirmed in employment for the remaining duration of your Fixed Term Agreement, notice of termination by you or the Company must be in writing and comply, at a minimum, with the notice periods below.
- d) The probation notice period referenced in section 5.4 of your Part A, the notice is for both employer and employee.
- e) Notwithstanding the provisions set out above, the Company may terminate your employment at any time by mutual agreement.

### **2 PAY**

#### **2.1 PAY DETAILS**

##### **2.1.1 Pay**

- a) Your Rate of Pay as stated in Part A of your Agreement is a consolidated rate, inclusive of all contractual hours worked, statutory leave and public bank holidays.
- b) For pay purposes a month is 30 days. A Tour of Duty of less than one month or a part month is calculated on the basis of one thirtieth of the rate per month for each day worked.
- c) You are paid monthly in arrears.
- d) The Company will cover all charges relating to the sending of your salary/related payments. Any charges applied by your bank or any necessary intermediary bank relating to the handling or receipt of these funds will be at your own expense.

##### **2.1.2 Commencement/End of Pay**

- a) Pay commences on the day of joining the ship for your Tour of Duty.
- b) Pay ends on the day you leave the ship or as defined in the applicable legislation implementing the Maritime Labour Convention 2006 if later. If you are a 2 Stripe or above Officer, you will be paid until you reach your repatriation destination.
- c) Your final payment on termination will normally be paid in the next payroll and no longer than 1 month since your previous monthly payment.

#### **2.2 OVERTIME & OTHER PAY**

##### **2.2.1 Overtime**

- a) Cruising is a 7 day week operation and Part A, section 4.2 of your Employment Agreement states the number of consolidated hours that you are required to work under this Agreement.
- b) The rate of pay stated in Part A includes compensation for any and all hours worked up to the number of consolidated hours.
- c) If your consolidated hours of work are 390 hours, no additional payment for overtime will be made.
- d) If your consolidated hours are less than 390 and you work more than your consolidated hours during a 30 day month, they will be paid at a minimum of 1.25 x your basic hourly rate, subject to e) below.
- e) There is no entitlement to work overtime and in order to receive payment you must obtain authorisation in advance of the hours being worked.

##### **2.2.2 Gratuities**

You may be eligible for gratuities – please refer to the Gratuities Policy.

|            |   |
|------------|---|
| <b>2.3</b> | <b>PAY DURING TRAINING</b><br>Where you are required to attend Company requested training outside of your agreed Tour of Duty, you will be paid your daily rate for the duration of the training.   |
| <b>2.4</b> | <b>DEDUCTIONS</b><br>a) The Company reserves the right to make deductions from your pay or to require you to make a payment to the Company in any of the following circumstances, subject to any limitations imposed by the applicable Flag State Law:<br>i. Any monies due by you to the Company.<br>ii. If you have any unpaid onboard accounts.<br>iii. Any Company funded training received by you which is repayable.<br>iv. Any costs incurred under the Seafarers Travel Policy which are repayable.<br>v. Any overpayment that may have been made to you by the Company whether by administrative error or otherwise.<br>vi. A breach of your obligations as detailed in the Merchant Shipping (Seamen's Wages and Accounts) Regulations 2007, or as subsequently amended.<br>b) The above circumstances are in addition to any 'Statutory' deductions which are authorised or permitted from time to time under applicable Flag State law.<br>c) Should salary be overpaid, the Company reserves the right to adjust your future salary payments until the overpayment has been recovered.<br>d) The Company will discuss any such overpayment with you with the intention of reaching a mutually agreed approach to how and when any deduction will be repaid. The Company will also then notify you in writing of any such deductions. |
| <b>2.5</b> | <b>TAX &amp; SOCIAL SECURITY</b><br>a) If domicile in the UK, your pay is subject to PAYE and National Insurance deductions unless you are exempted by the HMRC or the National Insurance Contributions Office (NICO). To enquire about exemptions you should contact either your District HMRC office or the NICO.<br>b) If you are not domicile in the UK, it is your responsibility to make arrangements with the relevant tax authorities in your country of domicile to settle your tax and social security liabilities.   |

### **3 PENSION**

#### **3.1 PENSION**

##### **3.1.1 Pension Eligibility**

This employment is non-pensionable.

### **4 TRAVEL**

#### **4.1 PASSPORTS**

- a) It is a requirement that you are in possession of a passport which is valid for at least 6 months beyond the end of each Tour of Duty.
- b) The costs associated with obtaining/renewing your passport are your responsibility.

#### **4.2 TRAVEL DOCUMENTS/VISAS**

- a) It is your responsibility to ensure that you are in possession of, hold and maintain all the necessary travel documents and visas at all times.
- b) For specific immigration and vaccination requirements, the Company will advise accordingly.
- c) The costs associated with obtaining/renewing visas will be borne by the Company.

#### **4.3 TRAVEL ARRANGEMENTS/REPATRIATION**

##### **4.3.1 Travel within Country of Residence (to and from gateway airport/port)**

Reasonable expenses incurred travelling by public transport to/from the nominated departure airport to join/leave the ship are reimbursed by the Company.

##### **4.3.2 International Air Travel**

Air travel is provided by the Company in accordance with the Seafarers Travel Policy.

##### **4.3.3 Hotel Accommodation**

Hotel accommodation will be provided by the Company at the port of joining/leaving where appropriate.

##### **4.3.4 Other Expenses**

Please refer to the Seafarers Travel Policy for details.

##### **4.3.5 Repatriation**

- a) The Company will repatriate you in accordance with the Seafarers Travel Policy (which complies with all relevant legislation) and any specific travel arrangements as stated within

|            |   |
|------------|---|
|            | <p>your Employment Agreement, to the repatriation destination stated on Part A of your Seafarers Employment Agreement.</p> <p>b) Your repatriation destination will be deemed to be mutually agreed when you sign this Agreement. Once mutually agreed, there is no automatic right to change your agreed repatriation destination should you move home or change your country of residence. Any change to your repatriation destination would need to be in accordance with the Seafarers Travel Policy and formally agreed in writing.</p> <p>c) If you are dismissed on disciplinary grounds, you will be required to pay the cost of your repatriation.</p> |
| <b>4.4</b> | <p><b>CUSTOMS &amp; IMMIGRATION</b></p> <p>You are required to conform to all Customs and Immigration requirements and, when required by the authorities concerned, report to Customs and Immigration officials at times and places as directed by the Passenger Services Director or any other individual authorised/delegated by the Captain.</p>   |
| <b>4.5</b> | <p><b>BAGGAGE ALLOWANCE</b></p> <p>Baggage Allowance is in accordance with the Seafarers Travel Policy.</p>   |
| <b>4.6</b> | <p><b>LOCAL LEAVE</b></p> <p>Subject to the conditions and requirements of the Local Leave Policy, you may request to take local leave in advance of joining a ship or as an alternative to your immediate repatriation at the end of a Tour of Duty (see Local Leave Policy for full details).</p>   |

## **5 MEDICAL & SICKNESS**

|              |   |
|--------------|---|
| <b>5.1</b>   | <p><b>POLICIES &amp; PROCEDURES</b></p> <p>a) The following section outlines the contractual elements applicable to you in respect of medical, sickness, injury and health. The clauses below will be in accordance with, and must be read in conjunction with, the Medical and Absence Policies and Procedures which expand on the provisions, the procedures to be followed and your responsibilities.</p> <p>b) Please note that policies, rules and procedures will be kept under review and additional policies, rules and procedures may be introduced, amended or withdrawn as considered necessary and appropriate for the better regulation of employment or for legal compliance. It is the most recently published version which will apply.</p> <p>c) All policies and procedures are documented on the Company Intranet.</p>   |
| <b>5.2</b>   | <p><b>MEDICAL CERTIFICATE OF FITNESS</b></p>  |
| <b>5.2.1</b> | <p><b>Medical Certification</b></p> <p>a) Your employment is subject to a valid Medical Certificate of Fitness confirming that you are able to work at sea and carry out the duties required of you (normally either an ENG1, equivalent certificate acceptable to the Flag State or a Carnival UK Medical Certificate, as appropriate).</p> <p>b) If your medical certificate has any restriction or is dated for a period of less than two years, you are required to advise the Carnival UK Medical Department upon receipt of your certificate and, in any event, in reasonable time prior to joining the ship to assess any risk.</p> <p>c) Failure to disclose any pre-existing medical condition may cause you to forfeit all medical and related benefits.</p> <p>d) You must always carry your original medical certificate to the ship.</p> <p>e) It is your responsibility to ensure that your medical certification is renewed on expiry and valid at all times during your employment.</p> |
| <b>5.2.2</b> | <p><b>Cost of Certification</b></p> <p>a) The Company will pay any reasonable cost of the pre-employment medical examination and the renewal of the medical certificate as determined by the Company, which is a requirement to work on board.</p> <p>b) It is your responsibility to pay any costs for additional investigations, dental treatment, dental certification, medical referrals and medical reports that are necessary in order for you to be issued with a Medical Certificate of Fitness that are over and above the cost determined by the Company.</p>   |
| <b>5.3</b>   | <p><b>HEALTH DECLARATION</b></p> <p>a) You are required to complete a Health Declaration, normally onboard, prior to commencing a new Tour of Duty.</p> <p>b) You must declare all medication you are taking on this form whether it is prescribed by your doctor or not (e.g. over the counter medication).</p>  |

Part B3  
Standard Terms and Conditions Fixed Term: Employment  
Ref: B3 - Current (1<sup>st</sup> April 2015)

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| <p>c) You must also declare any visit to your doctor that required treatment or periods of hospitalisation that occurred during your tour leave. Failure to do so may cause you to lose medical benefits and sick pay.</p>   |
| <p><b>5.4 VACCINATIONS</b></p> <p>a) The vaccination requirements of the countries in which the Shipowner's fleet enters are constantly being monitored. The Company/Shipowner will aim to advise you of vaccination requirements prior to joining a ship but this is not always possible. As such, you may be required to comply with further vaccinations during the course of your employment.</p> <p>b) It is your responsibility to carry any original International certificates of vaccination with you to the ship.</p> <p>c) If you are unable to receive the vaccine for any reason, it may be necessary to remove you from the ship.</p> <p>d) The Company will cover the cost of any vaccinations or medical precautions if specifically required and or requested by the Company/Shipowner.</p>   |
| <p><b>5.5 MEDICAL CARE</b></p> <p>a) Emergency and routine medical care will be provided to you at no cost to you when you have left your country of residence and are in transit to the ship and during a Tour of Duty.</p> <p>b) If you become ill before you leave your home country, the Company/Shipowner is not responsible for the cost of medical care.</p> <p><b>5.5.1 Medical Care Onboard</b></p> <p>a) The cost of medical treatment recommended by the ship's doctor and related costs incurred during a Tour of Duty will be met by the Company. This does not include dental or optical treatment of a non-essential nature unless caused by an accident or injury in the course of employment.</p> <p>b) You must take sufficient supply of any medications you routinely take to last one month longer than your anticipated end of Tour of Duty. If this is not possible, it is your responsibility to inform the ship's doctor before the medication runs out so it can be sourced ashore. The cost of re-supply and any associated costs will be at your expense.</p> <p>c) If medical disembarkation home is deemed necessary by the ship's doctor, you will be repatriated to your country of residence.</p> <p><b>5.5.2 Medical Care Ashore</b></p> <p>a) If landed to hospital ashore for medical treatment, the Company will accept responsibility for costs incurred in relation to treatment there and either the costs incurred rejoining the ship or the cost of repatriation to your Repatriation Destination.</p> <p>b) If you require on-going medical treatment at home, you must follow the stated policy and procedure.</p> <p>c) The Company will provide on-going medical treatment, medication and therapeutic appliances prescribed by a medical practitioner on your return home for 16 weeks or until the medical condition has reached a point where it is believed the condition will not change or progress in spite of continuing medical or rehabilitative procedures.</p> <p>d) The Company will not cover the cost of medical treatment, investigations or medication covered under a universal health care or insurance system in your country of residence.</p> <p>e) The Carnival UK Medical Department (ashore) will determine the most appropriate way to manage your care.</p> |
| <p><b>5.6 SICKNESS AND ABSENCE</b></p> <p><b>5.6.1 Sick Pay</b></p> <p>a) From the first day you are unable to work for reasons related to an illness or injury which occurs or first manifests itself while you are onboard, you will receive sick pay irrespective of whether you are onboard or have been repatriated/landed.</p> <p>b) Sick pay will be for 16 weeks or until you become entitled to cash benefits under the law of your country of residence or until you reach maximum medical improvement, whichever occurs first.</p> <p>c) Sick pay will only be paid on the production of acceptable medical evidence e.g. valid Doctors Medical Sickness Certificate and in accordance with the Medical and Absence Policies.</p> <p><b>5.6.2 Sickness during Tour Leave</b></p> <p>Tour Leave is not applicable to this Agreement as you are under a Fixed Term Agreement.</p> <p><b>5.6.3 Medical Examination during Sickness Absence</b></p> <p>During the course of sick leave the Company has the right to instruct you to attend one or more medical examinations by a medical practitioner, Occupational Health practitioner or</p>  |

Part B3  
Standard Terms and Conditions Fixed Term Employment  
Ref: B3 - Current (1<sup>st</sup> April 2015)



consultant employed or nominated by the Company.

## 6. PERSONAL INJURY & DEATH IN SERVICE

### 6.1 DISABILITY

- a) In the event you become permanently partially or totally disabled or permanently medically unfit as a result of occupational illness or injury, or while travelling to/from the ship, the Company will be entitled to terminate your employment, subject to any statutory notice provisions.
- b) You will receive compensation as defined in the applicable legislation implementing the Maritime Labour Convention 2006 or 96 x basic monthly wages for permanent total disability (pro-rata for permanent partial disability) if greater.

### 6.2 LIFE INSURANCE

- a) In the event of death for any reason (other than death due to wilful acts), the Company will make a payment as defined in the applicable legislation implementing the Maritime Labour Convention 2006 or 48 x basic monthly wages if greater.
- b) It is important that you regularly complete an Expression of Wish form to notify the Trustees of the Scheme who you would wish to receive the lump sum in the event of your death. Forms are available from the Fleet HR department in Southampton.

### 6.3 DEATH AT SEA

If a seafarer dies through any cause whilst on a Tour of Duty, undertaking other work required by the Company or whilst travelling to and from the ship or agreed place of work (including natural causes or as a result of marine peril), the Company will transport, at its own expense, the body/ashes to the seafarers home where practical and pay the cost of reasonable burial expenses.

## 7. FACILITIES & PERSONAL EFFECTS

### 7.1 ACCOMMODATION

- a) The Company's berthing standard is in accordance with Flag State law.
- b) You are required to ensure that your accommodation is kept clean and tidy and periodic inspections will be made.
- c) There is no deduction from wages for accommodation.

#### 7.1.1 Food Costs

Food is provided free of charge.

#### 7.1.2 Equipment

All equipment issued remains the property of the Company and it is your responsibility to return it in good order (fair wear and tear accepted) at the end of each Tour of Duty.

### 7.2 LAUNDRY

You are entitled to a free laundry allowance. Details are available onboard.

### 7.3 INSURANCE OF EFFECTS

- a) Personal effects are only insured against total or partial loss or damage by marine peril. (Marine peril is the wreck, loss, stranding or abandonment of the ship or the result of fire, flooding or collision.)
- b) They are not covered in any other circumstances and you are therefore recommended to insure your effects.
- c) Full details, including exclusions, can be found in the Personal Effects Policy.

### 7.4 SEAFARERS EFFECTS

The Shipowner shall take measures of safekeeping your property when left onboard as a result of your being landed due to sickness or injury and will return it to you, or in the event of death will return any property to your next of kin.

## 8. UNIFORMS

### 8.1 PROVISION OF UNIFORM

You will be provided with the appropriate uniform for your rank.

### 8.2 UNIFORM STANDARDS

You are required to wear Company uniform/approved working clothing in accordance with your rank and as specified within the Uniform Policy.

## 9. TRAINING/CERTIFICATES OF COMPETENCY

### 9.1 TRAINING

Part B3  
Standard Terms and Conditions Fixed Term Employment  
Ref: B3 – Current (1<sup>st</sup> April 2015)

- a) In order to maintain the level of skills, expertise and mandatory certification within the operation, you will be expected to attend appropriate training courses onboard or ashore as required by the Company.
- b) Reasonable travelling and accommodation expenses will be reimbursed on production of a properly completed Expense Form with all accompanying receipts and in accordance with the Travel Policy.
- c) The Company operates a Study Leave for Professional Development Policy for applicable ranks. All applications will be assessed equally and, if approved, you will be required to enter into a Study Leave Training Agreement. The programme will be administered by the Fleet Training Department.

## 10. HEALTH & SAFETY

### 10.1 HEALTH & SAFETY REGULATIONS

- a) Health & Safety Procedures onboard comply with statutory requirements.
- b) You are required to comply with all statutory and Company rules, regulations, policies and procedures pertaining to health and safety.

### 10.2 SAFETY CLOTHING & EQUIPMENT

You are required to wear safety clothing/equipment supplied as appropriate and failure to comply is a breach of the Code of Conduct.

### 10.3 FIRE & EMERGENCY DRILLS

All onboard are required to attend drills at intervals decreed by the Captain in accordance with statutory requirements.

## 11. STANDARDS & PERFORMANCE

### 11.1 STANDARDS OF SERVICE

To be successful, the ship must offer the highest possible standards of service to its passengers. You have a responsibility to ensure that you fulfill your duties to the best of your ability. The required standards must be met and all Company and Shipowner's regulations complied with.

### 11.2 PERFORMANCE REVIEW/APPRaisal

You will be subject to regular reviews of your performance and, if you are a manager, you will be required to regularly review the performance of your staff in accordance with the Appraisal Policy/Process.

### 11.3 PERSONAL CONDUCT & RELATIONSHIPS

- a) Your personal conduct must be beyond reproach, ensuring that any personal relationships onboard must not diminish your position and authority within the shipboard structure or bring your position or authority into question or disrepute.
- b) You must take particular care not to jeopardize yourself in a manner which could be misconstrued by others as grounds for a complaint for harassment, sexual or otherwise.
- c) You are responsible for the discipline within your area(s) of responsibility and must set a good example at all times.
- d) Violation of any Policies, Rules, Procedures or Regulations may result in disciplinary action.
- e) The Company has a policy of zero tolerance to the use of illegal drugs and strict rules concerning the consumption of alcohol, as detailed in the Drug and Alcohol Policy. The Company has the right to search your accommodation and baggage if possession of illegal drugs is suspected.
- f) Any seafarer committing criminal acts will be subject to criminal prosecution in any appropriate jurisdiction.

### 11.4 CONFIDENTIALITY/DISCLOSURE OF INFORMATION

- a) In accordance with the Code of Business Conduct and Ethics, as amended from time to time, you shall not use or disclose to any person either during, or at any time after, your employment any confidential information about the business or affairs of either the Company or any Group Company, or any of its business contacts, or about any other matters which may come to your knowledge in the course of your employment.
- b) For the purposes of this clause, 'confidential information' means any information or matter which is not in the public domain and which relates to the affairs of the Company or any Group Company and includes, but is not limited to, pricing, passenger lists, ship operational matters, personal information regarding employees or customers, policies, procedures and manuals.



- c) The restriction in this clause does not apply to use or disclosure that has been authorised by the Company, is required by law or by your employment.

## **12. SHIPBOARD ACCOUNTS**

### **12.1 SHIPBOARD ACCOUNTS**

- a) When onboard, all purchases are made via your shipboard account. All onboard accounts are to have a credit card registered against them or, if a cash account, they are to be kept in credit at all times and must be completely settled with no outstanding balance prior to completion of your Tour of Duty.
- b) The full Policy is available from the Crew Office when onboard. The right is reserved to amend this Policy and the way onboard accounts are managed from time to time in line with requirements. All efforts will be made to give reasonable notice of any changes.

## **13. SEVERANCE**

### **13.1 UNEMPLOYMENT THROUGH SHIP'S LOSS OR FOUNDERING**

- a) In the event of the loss or foundering of the ship and where the Company is unable to continue your employment, you will be entitled to receive compensation of two months' consolidated wages.
- b) The payment will include any statutory redundancy entitlement under Flag State law and will be increased if the statutory entitlement is greater.

### **13.2 REDUNDANCY**

If the ship is withdrawn from service for any reason other than loss or foundering and no alternative employment is available to enable completion of the minimum contract period of 6 months, you will be paid one month's consolidated wages as compensation for premature discharge if the required notice period is not given.

The above payments will include any statutory redundancy entitlement under Flag State Law and will be increased if the statutory entitlement is greater.

## **14. TRADE UNION MEMBERSHIP**

Whilst the Company has no objection to an individual being a member of a trade union, under this Employment Agreement the Company does not recognise any Trade Union for the purpose of collective bargaining.

## **15. ARBITRATION, VENUE AND RESOLUTION OF CLAIMS, CONTROVERSIES OR DISPUTES**

- 15.1** Any grievances must be lodged in accordance with the Company's Onboard Complaints Procedure. In the event the grievance is still not resolved, it must be referred to arbitration to the exclusion of any other legal or court proceeding as set forth below. Access to this complaints process does not extend any applicable statute of limitations for initiation of an action.
- 15.2** Any and all claims of any kind or nature whatsoever shall be resolved exclusively pursuant to the terms specified in the applicable collective bargaining agreement ("CBA"), if any, or government-mandated contract, if any. In the absence of a controlling CBA or government-mandated contract containing a dispute resolution provision or procedure, every conceivable dispute (including but not limited to wage and benefit matters, employment applications, wrongful termination or discrimination claims, property loss or damage, personal injury, death or any other claim) between you and the Company or others, including against the Captain, shipowner, ship, ship operator, charterer or any other third party including but not limited to any other Carnival Corporation and plc group brand on board the ships of which you may work, shall be resolved by binding arbitration. The parties agree that any and all claims between them of any kind or nature whatsoever are international commercial disputes and shall be referred to and resolved exclusively by binding arbitration in Bermuda (in English), to the exclusion of any other fora, in accordance with the Bermuda International Conciliation and Arbitration Act 1993 ("Arbitration Act"), which adopts the UNCITRAL Model Law on International Commercial Arbitration and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards or such other arbitration legislation in Bermuda which may be or

become applicable in lieu of the Arbitration Act.

- 15.3** The parties hereby waive personal service of any arbitration petition or papers, as well as legal documents relating to any Court proceedings in Bermuda to enforce the arbitration agreement and further stipulate that service of same shall be deemed effective either upon (a) personal service, (b) delivery of papers by internationally recognized courier service, (c) 10 days after mailing by postage paid first class mail, or (d) in the event either party has appointed an attorney in any jurisdiction to represent it regarding the subject dispute, then service upon such attorney (as above) shall constitute service upon the relevant party.
- 15.4** The parties hereby stipulate to have their dispute resolved by a single arbitrator. The arbitrator shall be agreed upon between the parties or appointed as set forth below:
- a) The party initiating the arbitration shall serve a notice to arbitrate and propose an individual to serve as arbitrator for the proceedings.
  - b) The party responding to the arbitration shall have twenty-one (21) days to respond to the notice to arbitrate and proposed arbitrator. If a party fails to timely respond within said twenty-one (21) day period or fails to timely object to the proposed arbitrator and propose an alternate arbitrator, the proposed arbitrator shall be appointed arbitrator for the matter, unless such person is excluded pursuant to this clause.
  - c) If the parties are unable to agree upon the arbitrator, such arbitrator will be appointed by the Appointments Committee of the Chartered Institute of Arbitrators (Bermuda Branch) or failing them, by the Supreme Court of Bermuda. The parties stipulate that (i) the arbitrator must be either a member of the Bar in Bermuda or the United Kingdom with at least ten years experience practicing law and experience in arbitration in Bermuda, or a former judge in Bermuda or the United Kingdom with similar experience; and (ii) that no individual who has either represented the Company or has represented anyone making any claim against the Company in the past ten (10) years shall be eligible to serve as arbitrator. Service as an arbitrator in a previous action involving the parties shall not constitute representing either the Company or anyone making a claim against the Company for the purposes of this clause.
- 15.5** In the event any claim is determined by the Bermuda Court to not be subject to arbitration for any reason, such dispute shall be litigated exclusively in the Supreme Court of Bermuda, and the parties submit to the exclusive jurisdiction of the Bermuda Court for this purpose, to the exclusion of the courts of any other country, state, city or region.

**16. GOVERNING LAW**

This Agreement shall be governed by the law of Bermuda.

**17. SEVERABILITY**

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any tribunal or court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect.

**18. POLICIES AND PROCEDURES**

**18.1 GENERAL**

**18.1.1 Regulations, Policies and Procedures**

- a) A number of regulations, policies and procedures apply to you as a seafarer onboard any ship in the Shipowner's fleet to which you are required to comply including, but not limited to, all policies or procedures referred to within your Seafarers Employment Agreement.
- b) Policies, rules and procedures will be kept under review and additional policies, rules and procedures may be introduced, amended or withdrawn as considered necessary and appropriate for the better regulation of employment or for legal compliance. It is the most recently published version which will apply. Details of the different types of regulations, policies and procedures which will apply are detailed below.

**18.1.2 Your Responsibilities**

- a) It is your responsibility to read all of the Shipowner's and the Company's regulations, policies and procedures, which are applicable to your role onboard and working at sea and comply with

Part 83  
Standard Terms and Conditions Fixed Term Employment  
Ref: 83 - Current (1<sup>st</sup> April 2015)

them.

- b) It is your responsibility to be aware of all of the rules within your employment and for which a breach may lead to disciplinary action and/or dismissal/termination. These can be found in the Code of Conduct.
- c) If you wish to complain about your treatment at work or terms and conditions, please refer to the Onboard Complaints Procedure.
- d) You must ensure that you keep up to date with any changes to policies.

#### **18.2 SEAFARERS POLICIES AND PROCEDURES**

- a) A number of policies and procedures are applicable to you during your employment. These policies do not form part of your contract of employment but you are required to comply with them and some, not all, are referred to within your Seafarers Employment Agreement.
- b) A few key policies which are fundamental to your employment will be provided to you as part of your 'offer pack' and should be read in advance of joining. However, you should ensure that you familiarise yourself with all policies and procedures upon joining.
- c) All policies and procedures are documented on the Company Intranet.

#### **18.3 CODE OF CONDUCT**

##### **1. Gross Misconduct**

Subject to the procedures outlined in the code of conduct and disciplinary procedures, the Company can summarily dismiss you at any time in cases of gross misconduct including, but not limited to, refusal or neglect to perform the required duties or a serious breach of the rules and regulations and Code of Conduct laid down by the Company. Such dismissal may be without notice/pay.

##### **2. Unauthorised Disembarkation**

The Company has the right to terminate this Agreement without notice immediately upon your unauthorised disembarkation from your assigned ship for any reason including, but not limited to, personal leave, illness or injury, which is likely to be, or has been, for more than 24 continuous hours.

##### **3. Desertion**

Your employment will cease immediately if you desert the ship or, if before signing on or signing off, you decide to visit and/or reside in any other place prior to reporting to the assigned ship or returning home. If you fail to report to the assigned ship as scheduled, no pay or other benefits shall be due from the Company. If desertion occurs after signing on the ship, the date of desertion will be taken as the date of cessation of employment. In any such case, you shall indemnify the Company in every respect against loss, damage, expense, fine and death or disability claims or any other claims arising as a result of, relating to, or connected with, such decisions by you.

#### **18.4 HESS MS SYSTEM**

- a) The Shipowner has clearly defined Regulations and Standing Orders which are applicable to its fleet. These regulations are issued on the authority of the relevant management committees and/or boards of directors as applicable.
- b) The HESS MS is the Shipowner's Safety Management System as required by the ISM Code, and includes Environmental Management System (ISO 14001), Shipowner Regulations and relevant International, National and Local regulations.
- c) Each ship within the fleet will also have Standing Orders specific to the ship. These are issued by the Captain, Deputy Captain or Chief Engineer.
- d) All Officers have responsibilities within the HESS MS and must be fully aware of the Standing Orders for the ship they are on. You must ensure that you read them upon joining a ship, adhere to them and keep yourself updated.
- e) The HESS MS can be accessed via a dedicated 'Corporate HESS' link in the Favourites of Internet Explorer or obtained via a member of the Operations Team onboard.